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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/713,983	11/13/2003	Boaz Carmeli	IL920030009US1	1536
35525	7590	10/17/2008	EXAMINER	
IBM CORP (YA)			DINH, KHANH Q	
C/O YEE & ASSOCIATES PC				
P.O. BOX 802333			ART UNIT	
DALLAS, TX 75380			PAPER NUMBER	
			2451	
			NOTIFICATION DATE	
			DELIVERY MODE	
			10/17/2008	
			ELECTRONIC	

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

ptonotifs@yeciipaw.com

Office Action Summary

Application No.

10/713,983

Applicant(s)

CARMELI ET AL.

Examiner

Khanh Dinh

Art Unit

2151

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 August 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 13-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 13-25 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-946)
- 3) ☐ Information Disclosure Statement(s) (PTO/SE/US)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

Election/Restriction

1. This is in response to the preliminary amendment filed on 8/4/2008. Claims 1-12 and 26-40 are canceled. Claims 13-25 are presented for examination.
2. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 13-19, drawn to a method of sending packets to a multiplicity of subscribers by monitoring the activity at a NACK server, classified in class 709, subclass 220.
 - II. Claims 20-24, drawn to a method of sending packets to a multiplicity of subscribers in a multicast subscription system by disturbing the flow of data between sender and subscribers, classified in class 709, subclass 224.
 - III. Claims 25, drawn to a method of sending packets to a multiplicity of subscribers in a multicast subscription system by having packets in a sent queue which were never in a pending queue, classified in class 709, subclass 229.

The inventions are distinct, each from the other because of the following reasons:

3. Inventions I, II, III are related as subcombinations disclosed as usable together in a combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention I has separate utility such as to a method of sending packets to a multiplicity of subscribers by monitoring the activity at a NACK server, classified in a *different Class/Subclass*. Invention II has separate utility such as a method of

sending packets to a multiplicity of subscribers in a multicast subscription system by disturbing the flow of data between sender and subscribers, classified in a *different Class/Subclass*.

Invention III has separate utility such as a method of sending packets to a multiplicity of subscribers in a multicast subscription system by having packets in a sent queue which were never in a pending queue, classified in a *different Class/Subclass*.

4. The inventions are distinct, each from the other, because of the following reasons:

(a) These inventions have acquired a separate status in the art as shown by their different classifications.

(b) The search required for each Group is different and not co-extensive for examination purposes.

For example, the searches for the three inventions would not be co-extensive because these Groups would require different searches on PTO's classification class and subclass as following:

the Group I search (claims 13-19) would require use of search **class 709**, **subclass 220** (not require for the inventions II, III).

the Group II search (claims 20-24) would require use of search **class 709**, **subclass 224** (not require for the inventions I, III).

the Group III search (claim 25) would require use of search **class 709**, **subclass 229** (not require for the inventions I, II).

For the reasons given above restriction for examination purposes as indicated is proper.

5. A telephone call was made to Peter B. Manzo 9/12/2008 to request an oral election to the above restriction requirement, but did not result in an election being made.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Conclusion

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Khanh Dinh whose telephone number is (571) 272-3936. The examiner can normally be reached on Monday through Friday from 8:00 A.m. to 5:00 P.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, FOLLANSBEE JOHN, can be reached on (571) 272-3964. The fax phone number for this group is (703) 872-9306.

A shortened statutory period for reply is set to expire THIRTY DAYS from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned (35 U.S. C. Sect. 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(A).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305 -9600.

Art Unit: 2151

/Khanh Dinh/

Primary Examiner, Art Unit 2151